

REMARKS/ARGUMENTS

Claims 1-48 and 58-61 are pending in the application. Claims 1-48 and 58-61 have been rejected. No new matter has been introduced into the application. As explained in more detail below, Applicant submit that all claims are in condition for allowance and respectfully request such action.

Claim Rejections – 35 USC § 103

Claims 1-48 and 58-61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tracton, et al. (U.S. Pat. No. 6,470,378) in view of del Val, et al. (U.S. Pat. No. 6,128,653) and Hallberg (U.S. Pat. No. 6,658,199).

The Office Action asserts *Tracton* discloses a method for receiving at a wireless terminal a first data stream from a motion video server via a wireless interface at a first bit rate, the first data stream comprising a motion video having initial presentation characteristics, and the wireless terminal comprising a video display. The Office Action further asserts that *del Val* discloses transmitting to the motion video server via the wireless interface a first display control command to alter presentation characteristics of the motion video and to alter the bit rate of the first data stream over the wireless interface, the first display control command having been entered by a user at the wireless terminal subsequent to the step of commencing display of the received motion video having initial presentation characteristics. Before addressing the tertiary reference, the Office Action sets forth that “it would have been obvious to one skilled in the art at the time of the invention to modify *Tracton* to utilize HTTP video manipulation commands of *del Val* thereby enabling a user to re-watch part of an MPEG segment they were interested in.” Office Action dated October 19, 2005; page 3).

The Office Action recognizes that *Tracton* "is silent regarding any functionality, which lets a user navigate a video stream, adjust presentation characteristics and bit rates." Office Action dated April 5, 2006, page 2. Therefore, combining the HTTP video manipulation commands of *del Val* which allow a user to re-watch part of an MPEG segment they were interested in with the automatic determination of data-streams of *Tracton* does not produce the subject matter of the rejected claims, even when considered in further view of the tertiary reference, *Hallberg*.

Hallberg, like *Tracton* appears to be directed towards altering a video stream before the viewer receives the stream. As discussed in the previous Response, *Hallberg* discloses a method for creating a transport stream that conforms to the limits of a MPEG digital video system using a digital video recorder. (*Hallberg*, Column 1, lines 7 – 10; and Abstract). Applying the teachings of *Hallberg* with *del Val* and *Tracton* does not produce the subject matter of the present invention. Nonetheless, to expedite prosecution, the Applicant has concurrently submitted a Declaration under 37 C.F.R. §1.131 that comprises facts and evidence demonstrating conception coupled with diligence from before September 21, 1999 (21.09.1999) until the filing of the above-captioned patent application on December 28, 1999. Because September 21, 1999 is before the effective date of *Hallberg*, the Applicant respectfully requests reconsideration and withdrawal of the rejection.

CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.


All rejections having been addressed, applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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By:


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